IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

CRP.No. 872 of 2006

OP(ELE.)37/2002 OF ADDL.DISTRICT COURT-I,MAVELIKKARA
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REVN. PETITIONER: RESPONDENT

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE, NANGIARKULANGARA,
KAYAMKULAM, REP. BY ITS MANAGER.

BY ADV. SRI.K.P.DANDAPANI (SR.)

RESPONDENTS: PETITIONERS

P.N.SATHYAVAN,
ANNAKKATTIL HOUSE,
MUTTOM P.O., CHEPPAD.

BY ADV. SRI.R.AZAD BABU

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 05/12/2007 ALONG WITH C.R.P NO. 30/2007 AND CONNECTED CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P. Nos.872 & 960/2006 & 30,36 & 50 OF 2007

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Dated this the 5th day of December 2007

O R D E R

C.R.P.No.872 of 2006 is preferred against the judgment of the Addl.District Court-I, Mavelikkara in O.P.(Ele.)37 of 2002 whereby the Addl.District Judge has awarded enhanced compensation of Rs.93,954/- with 6% interest. A perusal of paragraph 11 of the judgment would reveal that the annuity factor is taken at 5% in the light of the decision of this court reported in ***Kumba Amma v. K.S.E.B.(2000(1) KLT 542).***

2. C.R.P.No.960 of 2006 is preferred against the order of the Addl.District Court, Alappuzha in O.P.(EA)No.660/2002, whereby the Addl.District Judge has awarded enhanced compensation of Rs.28,991/- with 9% interest. A perusal of paragraph 7 of the order would reveal that the court below has followed the decision of this court reported in 2000(1) KLT 542.

3. C.R.P.No.30 of 2007 is preferred against the judgment of the Addl.District Court-I, Mavelikkara in O.P.(Ele.)196 of 2002, whereby an enhanced compensation of Rs.73,627/- is granted. There also paragraph 10

of the judgment would reveal that the annuity factor is fixed taking into consideration the decision of this court reported in Kumba Amma v. KSEB (2000(1) KLT 542).

4.C.R.P.No.36 of 2007 is preferred against the order of the Addl.District Court, Alappuzha in O.P.(EA)No.517 of 2002 wherein the court has awarded an additional compensation of Rs.88,300/- and relied on the decision of this Court referred to above.

5. C.R.P.No.50 of 2007 is preferred against the award passed by the Addl.District Judge, Alappuzha in O.P.(EA)502 of 2002. The Addl.District Judge has awarded an additional compensation of Rs.68,518/- with 9% interest. A perusal of the award would reveal that the annuity factor is fixed taking into consideration the decision of this Court reported in Kumba Amma v. KSEB(2000(1) KLT 542.

6. Learned counsel for the petitioner in all these cases would contend that in the light of the decision of the Apex Court reported in KSEB v. Livisha(2007(3) KLT 1(SC), wherein the Apex Court has remitted back all the matters to this court for fresh consideration. It has been held that each case has to be considered depending upon the facts and circumstances of the case and the guidelines are given as follows:

> The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case".

7. In the light of the principles laid down by the Apex Court in 2007 (3) KLT 1, the matter requires reconsideration by the courts below and therefore the orders under challenge are set aside and the matters are remitted back to the respective courts for fresh consideration after permitting both sides to adduce oral evidence as well as to produce documentary evidence in support of their contentions and dispose of the matter in accordance with law. Parties are directed to appear before the respective courts on 17.1.2008.

C.R.Ps are disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-